Civil Writ Petition No.150/99
Kanhaiya Rai Vs. State of Rajasthan & Ors

**Date of Order ::: 12/12/05**

***Hon'ble Mr. Justice Ajay Rastogi***

Mr. Sanjeev Pra.Sharma ) for petitioner
Mr. J.K.Agrawal, Addl.Govt.Adv. For the State

Instant writ petition has been filed by petitioner seeking compassionate appointment under Rajasthan Recruitment of Dependants of Government Servants Dying while in Service Rules, 1975 & 1996 (**"Rules"**).

Petitioner's mother Smt.Anita Rai who was serving as Teacher in Panchayat Samiti Baran, died while in service on 15/04/95. His father is also Government servant. After death of his mother, petitioner filed application seeking compassionate appointment, and the same was rejected by respondents vide order dt.09/09/97 (Ann.2) on the premises that under R.5 of Rules, 1996, if father is already serving in the Government, he cannot be considered for compassionate appointment.

Counsel for petitioner contends that petitioner and his two sisters were living together with their mother who died while in service and even if father is in Government service, he cannot be deprived from seeking compassionate appointment under Rules, 1996.

Having considered the contention, I find that there is no document on record to strengthen such submission and once father is in Government service, on whom family is ordinarily dependent and mother financially supports the family. Even otherwise petitioner's mother died while in service on 15/04/95

and after rejection of his claim for compassionate appointment vide order dt.09/09/97, writ petition was filed in 1999. Compassionate employment cannot be considered after lapse of reasonable period specified in the Rules as the object behind is to enable family to get over financial crisis which it faces at the time of death of sole bread winner. Compassionate employment cannot be claimed and offered whatever lapse of time and the crisis is over.

Consequently, this writ petition fails and is hereby dismissed. No costs.

**(Ajay Rastogi), J.**

K.Khatri/150CWP1999.

Civil Misc.Stay Petition No.5978/05 in
Civil Writ Petition No.7006/05
Chhajuram Meena Vs. State & Ors

**Date of Order ::: 14/12/05**

***Hon'ble Mr. Justice Ajay Rastogi***

Mr. Virendra Lodha ) for petitioner
Mr. Mitesh Sharma for Nagar Nigam,
Mr. S.D.Khaspuria for respondent No.4

Petitioner has impugned order dt.03/08/05 whereby after granting certain relaxation to respondent no.4, he was directed to be absorbed as Garden Inspector, which is the post to be filled up 50% by direct recruitment and 50% by promotion. This fact is not disputed that respondent No.4 who was working as Nakedar was absorbed as LDC in terms of their policy. This Court vide order dt.01/09/05 stayed operation of order dt.03/08/05.

An application has been filed under Art.226 (3) of Constitution for vacation of stay order. Having heard counsel for the parties and considered their respective contentions, I am not inclined to vacate the stay order dt.01/09/05. Consequently application for vacation of stay order stands rejected and stay order dt.01/09/05 passed by this Court shall continue till further orders.

(Ajay Rastogi), J.

K.Khatri/150cwp1999.

Civil 2nd Stay Petition No.7866/05 in
Civil Writ Petition No.778/01
Lalit K.Pareek Vs. State of Rajasthan & Ors

**Date of Order ::: 14/12/05**

***Hon'ble Mr. Justice Ajay Rastogi***

Mr. Manoj Pareek for petitioner
Mr. Akhil Simlote for the respondents.

Instant writ petition has been filed questioning adhoc appointment of respondent nos. 4 to 9. First application was filed for stay of adhoc appointment.

Petitioner alleged that respondents by holding DPC for the post in question of Asstt. Revenue Inspector, wants to regularised services of respondents employees.

The dispute which the petitioner has raised, is still pending adjudication. In my opinion, if any order is passed pending writ petition, certainly the same shall be subject to the final decision of writ petition.

With these observations, this 2nd stay application shall stand disposed of.

**(Ajay Rastogi), J.**

**K.Khatri/150cwp1999.**

Civil Writ Petition No.9778//05
Bharatlal Meena Vs. RCSAT & Others

**Date of Order ::: 15/12/05**

***Hon'ble Mr. Justice Ajay Rastogi***

Mr.Ajay Gupta, for petitioner,

Counsel contends that on his own request and taking into consideration his family circumstances, petitioner was transferred and posted at Dausa vide order dt.01/08/03 and just within a span of two years, retransferred to Abu road, which is at a distance of about 450 kms and further his younger brother is suffering from Cancer and except him, there is none to look after him; and that apart, none has been posted vice him..

Issue notice to respondents returnable within four weeks to show cause as to why writ petition alongwith stay petition be not heard finally and disposed of at admission stage. In the meantime and until further orders, operation of order transferring the petitioner dt.28/09/05 (Ann.7) shall remain stayed and respondents are directed to allow him to continue at Dausa on the post of Lecturer (EAFM).

Notices be given “Dasti”.

(Ajay Rastogi), J.

K.khatri/150cwp 1999.

Civil Writ Petition No.9802/05
Anup Singh Vs. State & Others
**Date of Order ::: 15/12/05**

***Hon'ble Mr. Justice Ajay Rastogi***

Mr. Manish Bhandari, for petitioner,

Counsel contends that as per R.17 of Rajasthan State & Subordinate Services (Direct Recruitment by Combind Competitive Examination), Rules, 1999 those who have availedof special concession like age & fees or such other concession, will be considered only against reserved vacancies of their respective quota, and not against general vacancy.

Issue notice to respondents returnable within two weeks to show cause as to why writ petition alongwith stay petition be not heard finally and disposed of at admission stage. Notices be given “Dasti”.

List on 05/01/06 as prayed.

(Ajay Rastogi), J.

K.khatri/150cwp 1999.

Civil Writ Petition No.____/05
(Defect No.2913/05)
Dr.Seema Mittal Vs. State & Others

**Date of Order ::: 15/12/05**

***Hon'ble Mr. Justice Ajay Rastogi***

Mr. Ajay Kumar Jain, for petitioner,

Counsel has removed defects pointed out by office. Counsel contends that petitioner was appointed vide order dt.26/07/93 (Ann.2) and after working for almost 12 years, her services have been dispensed with after giving her one month's notice vide order dt. 01/12/05 (Ann.6).

Admit. Issue notice.

Issue notice of stay petition to respondents. In the meantime and until further orders, operation of impugned order of termination of petitioner's service dt.01/12/05 (Ann.6) shall remain stayed.

(Ajay Rastogi), J.

K.khatri/150cwp 1999.

Civil Writ Petition No.8986/05
Shashi Bhushan Vs. State & Others
**Date of Order ::: 15/12/05**

***Hon'ble Mr. Justice Ajay Rastogi***

Mr. Sanjay Pareek, for petitioner,

Notices were issued on 16/11/05. As per office report, notices have been served upon respondents. Despite service, respondents failed to put their appearance.

In the facts & circumstances, I consider it proper to direct respondents to allow the petitioner to join his duties on the post of Draftsman-cum Surveyor held by him. However, respondents will be free to take any action in accordance with law.

List for admission after four weeks.

**(Ajay Rastogi), J.**

**K.Khatri/150cwp1999.**

Civil Writ Petition No.9874/05
Ravindra Kumar & Ors. Vs. State & Others
**Date of Order ::: 15/12/05**

***Hon'ble Mr. Justice Ajay Rastogi***

Mr. Rohitashw Kajla, for petitioner,

By instant petition, petitioners have sought appointment to the post of Teacher Gr.III in primary Schools in Zila Parishads pursuant to advertisement dt.15/06/98 in the light of judgment of Apex Court in Kailash Chandra's case (AIR 2002 SC 2877).

Controversy raised by petitioners has been decided by this Court in ***Duli Chand Vs. State (2003(2) RLR 42*)** wherein relief prayed for has been declined. In view of aforesaid judgment of this Court, this writ petition fails and is hereby dismissed alongwith stay petition No.8529/05 in limine.

**(Ajay Rastogi), J.**

**K.Khatri/150cwp1999.**

Civil Writ Petition No.5182//05
Sunil Kumar Sharma & Ors. Vs. State & Others
**Date of Order ::: 15/12/05**

***Hon'ble Mr. Justice Ajay Rastogi***

Mr. Laxmi Kant Sharma, for petitioners,

Counsel contends that the dispute in present petition has been decided by Full Bench of this Court in Lalit Mohan Sharma Vs. R.P.S.C. (2005(10) RDD 4483) whereby this Court declined to grant any relief as prayed for in writ petition.

In view of full Bench decision (supra), this writ petition fails and is hereby dismissed in limine.

(Ajay Rastogi), J.

K.Khatri/150cwp1999.

Civil Writ Petition No.5197//05
Rajendra Kumar Vs. State & Others
**Date of Order ::: 15/12/05**

***Hon'ble Mr. Justice Ajay Rastogi***

Mr. Laxmi Kant Sharma, for petitioners,

Counsel contends that the dispute in present petition has been decided by Full Bench of this Court in Lalit Mohan Sharma Vs. R.P.S.C. (2005(10) RDD 4483) whereby this Court declined to grant any relief as prayed for in writ petition.

In view of full Bench decision (supra), this writ petition fails and is hereby dismissed in limine.

(Ajay Rastogi), J.

K.Khatri/150cwp1999.

Civil Writ Petition No.4747//05
Smt. Nivedita Vs. RPSC & Others
**Date of Order ::: 15/12/05**

***Hon'ble Mr. Justice Ajay Rastogi***

Mr. Rajendra Sharma, for petitioners,

Counsel contends that the dispute in present petition has been decided by Full Bench of this Court in Lalit Mohan Sharma Vs. R.P.S.C. (2005(10) RDD 4483) whereby this Court declined to grant any relief as prayed for in writ petition.

In view of full Bench decision (supra), this writ petition fails and is hereby dismissed in limine.

(Ajay Rastogi), J.

**K.Khatri/150cwp1999.**

Civil Writ Petition No.9891//05
Manju Devi Sharma Vs. Chairman RRVPNL & Others

**Date of Order ::: 16/12/05**

***Hon'ble Mr. Justice Ajay Rastogi***

Mr.Lokesh Atrey, for petitioner,

Counsel contends that after going through process of selection, petitioner was appointed as Junior Engineer II © vide order dt.09/06/05 but because of her illness, she could not report for duty and submitted her joining report on 03/08/05 in the office of respondent vide Ann.5 but she has not been permitted to join and thereafter further representations were sent by her.

Issue notice to respondents returnable within three weeks to show cause as to why writ petition alongwith stay petition be not heard finally and disposed of at admission stage. In the meantime and until further orders, one post of Junior Engneer II © be kept vacant for petitioner. Notices be given “Dasti”.

(Ajay Rastogi), J.

**K.khatri/150cwp 1999.**

**Civil Writ Petition No.9550/05**
**Panch. Samiti ChhipaBarod Vs.Abdul Shahid & Ors.**

**Date of Order ::: 16/12/05**

***Hon'ble Mr. Justice Ajay Rastogi***

Mr. J.K.Agrawal Addl.Govt.Adv. for petitioner,

Instant petitioner has been filed against Award dt.23/04/02 passed by Labour Court, Kota. As per facts on record, respondent workman joined service w.e.f. 01/09/92 and was not permitted to mark attendance w.e.f. 28/02/94. After reference was made by State Govt., he filed statement of claim, and inter alia submitted therein about his working period as Naka Guard. Despite service, no written statement was filed by petitioner and none appeared before the Labour Court. After taking into consideration material, Labour Court recorded finding that the workman had worked for more than 240 days and without compliance of S.25F of the ID Act, his services were terminated and as a consequence whereof, reinstatement with 25% back wage was awarded. No application was filed for setting aside ex parte Award passed by Labour Court.

Counsel for petitioner contends that there was no document on record to show about workman's working as Naka Guard in office of petitioner and he being daily wagers even if provisions of S.25-F of the Act was, if not complied with, order of reinstatement was not justified and the workman is entitled only for compensation in lieu thereof. In support of his contention, Counsel placed reliance upon decision of this Court in Special Appeal (Writ) No.529/04 State Vs. Ramesh Kumar decided on 21/04/05.

I have considered contentions of the Counsel

for petitioner and also perused findings recorded by Labour Court. The workman had come with a specific case before the Labour Court that he had worked more than 240 days and also specified his actual working and no counter to statement made by workman was filed by petitioner before Labour Court. Despite service, none appeared to contest the matter. Finding was recorded after taking into consideration material on record and as informed, no application was filed for setting aside ex parte Award. I find no error in the finding recorded by Labour Court in respect of completion of 240 days service of workman and on account of non-compliance of requirement under the Act, as a consequence whereof, reinstatement was ordered and looking to the nature of work period of workman, only 25% back wages was awarded.

As regards judgment relied upon by the Counsel, it was a case where termination was given effect to because of abolition of post, itself and it was contended that there is no post available against which workman could be reinstated in service and taking these peculiar facts into consideration, this Court directed to pay compensation in lieu of reinstatement. Therefore, this decision is of no assistance to the petitioner.

Consequently, this writ petition fails and is hereby dismissed alongwith stay petition No.8249/05 in limine.

(Ajay Rastogi), J.

K.Khatri/150cwp1999.